

REMARKS

Claims 1-18 are pending in the present application. In the Office Action, the Examiner objected to claims 1, 6, 10, and 14 because of the alleged informality, "the second subspaces." Applicants have amended claims 1, 6, 10, and 14 to clarify the claim language. The claims have in no way been narrowed by virtue of these amendments and so these amendments should not be interpreted as narrowing the claimed invention for purposes of any determination under the doctrine of equivalents. Applicants request that the Examiner's objections to claims 1, 6, 10, and 14 be withdrawn.

In the Office Action, the Examiner rejected claims 1 and 14 under 35 U.S.C. 103(a) as being unpatentable over Bodin, et al (U.S. Patent No. 5,301,356) in view of Schilling (U.S. Patent No. 5,410,568). Claims 2 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Schilling and further in view of Gilhousen (WO 95/03652). Claims 3, 6-7, 10-11, and 16 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Schilling and further in view of Gilhousen. Claims 4-5, 8-9, 12-13, and 17-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Bodin in view of Schilling and Gilhousen and further in view of Arai (U.S. Patent No. 5,907,545). The Examiner's rejections are respectfully traversed.

Bodin describes a control procedure for locating neighboring base stations for handoff, *i.e.* Bodin describes a control procedure for a handoff between a first base station and a target base station. Once a target base station has been identified, a central processing unit 200 polls all general channels corresponding to the target base station to determine if there is an available general channel. If no general channels are available, the central processing unit 200 polls reserved channels associated with the target base station to determine if there is an available

reserved channel. The available channel, either a general channel or a reserved channel, is then assigned to a handoff request. See Bodin, Figure 6 and related discussion.

The Examiner equates the general and reserved channels described by Bodin with the first and second codes set forth in the present invention. The Examiner then alleges that Bodin describes assigning a first code to a user currently using a second code in one of the at least two subspaces (*i.e.*, the general channel subspace and the reserved channel subspace) and performing an in-sector handoff of the user from the second code to the first code. Applicants respectfully disagree. As discussed above, Bodin teaches that either a general channel (if available) or a reserve channel (if available) may be assigned to a handoff request so that a user may be handed off to a target base station. Assuming *arguendo* that the Examiner's assumption that the general and the reserved channels of Bodin are the same as the first and second codes of Applicants' invention (and they are not), Bodin still does not teach that a user currently using either a general channel or a reserved channel may be assigned to a channel in the other subspace. For example, Bodin does not teach that a user currently using a general channel may then be assigned to a reserved channel.

Moreover, as admitted by the Examiner in lines 2-3 on page 5 of the Office Action, Bodin does not teach or suggest performing an in-sector handoff, as set forth in independent claims 1, 6, 10, and 14. The Examiner attempts to remedy this admitted deficiency of the primary reference by stating that the same principles apply to the handoff between sectors described by Bodin and to the in-sector handoff set forth in the present invention. Applicants respectfully submit that whether or not the same principles apply is not material to a determination of obviousness because Bodin admittedly fails to teach or suggest performing an in-sector handoff. To the contrary, Bodin teaches that handoff requests from other cells should

be given priority over new call requests to reduce the probability that calls will be dropped during an inter-cell hand-off to a target cell that has a full load. See Bodin, col. 3, ll. 7-12. Thus, Bodin teaches away from performing an in-sector hand-off. It is by now well established that teaching away by the prior art constitutes *prima facie* evidence that the claimed invention is not obvious.

The Examiner relies upon the secondary references, Gilhousen, Shilling, and Arai to teach assigning a second code to a different subspace, assigning codes on a time shared basis, and a second subspace used for data communication, respectively. However, none of the secondary references remedy the fundamental deficiencies of the primary reference, *i.e.* the failure to teach or suggest assigning a first code to a user currently using a second code in one of the at least two subspaces and the failure to teach or suggest performing an in-sector handoff of the user from the second code to the first code.

Applicants also submit that the cited references fail to provide any suggestion or motivation to modify the references or to combine reference teachings to arrive at Applicants' claimed invention. As discussed above, Bodin is concerned with a control procedure for a handoff between a first base station and a target base station and thus is completely silent with regard to performing any sort of in-sector handoff. The secondary references are also completely silent with regard to performing an in-sector handoff.

The Examiner alleges that Schilling provides the motivation to incorporate a second subspace where all of the codes are assigned to a single user into the prioritization scheme described by Bodin. In particular, the Examiner alleges that the prior art of record includes a suggestion that the teachings of Schilling should be combined with Bodin to allow the system described by Bodin to provide full duplex communications. Applicants respectfully disagree.

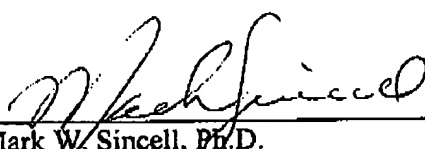
Neither Schilling nor Bodin teaches that the system described by Bodin is incapable of full duplex communications. Furthermore, even if one assumes *arguendo* that Bodin is incapable of full duplex communications, which does not appear to be the case, Applicants submit that the prior art of record provides no teaching that the techniques described by Schilling should be combined with the prioritization scheme of Bodin to provide full duplex communications.

For at least the aforementioned reasons, Applicants respectfully submit that the Examiner has failed to make a *prima facie* case that the present invention is obvious in view of the cited references, either alone or in combination. Thus, Applicants request that the Examiner's rejections of claims 1-18 under 35 U.S.C. 103(a) be withdrawn.

For the aforementioned reasons, it is respectfully submitted that all claims pending in the present application are in condition for allowance. The Examiner is invited to contact the undersigned at (713) 934-4052 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

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